

The Judge found that Ms. McKinzie injured herself at work on Friday, October 30, 1998, when the chair that she was sitting in malfunctioned causing her right knee to strike the floor. Ms. McKinzie testified that immediately after the incident her leg and back hurt. She also testified that over the weekend those symptoms worsened to the point that she had problems getting up. On Monday, Ms. McKinzie saw her family physician and reported the injury to her employer, Midwest Regional Credit Union.

Because there were no witnesses to the accident, Ms. McKinzie's credibility is crucial. After observing Ms. McKinzie testify, the Judge found her description of the accident persuasive and awarded her benefits. At this stage of the proceeding, the Board gives some deference to the Judge's determination that Ms. McKinzie was a credible witness. Therefore, the Board adopts the Judge's finding that Ms. McKinzie sustained personal injury by accident arising out of and in the course of her employment with the credit union.

As provided by the Workers Compensation Act, preliminary hearing findings are not final but subject to modification upon a full hearing on the claim or at a later preliminary hearing.¹

WHEREFORE, the Appeals Board affirms the April 19, 1999 preliminary hearing Order entered by Judge Julie A. N. Sample.

IT IS SO ORDERED.

Dated this ____ day of June 1999.

BOARD MEMBER

c: Mark E. Kolich, Kansas City, KS
James M. McVay, Great Bend, KS
Julie A. N. Sample, Administrative Law Judge
Philip S. Harness, Director

¹ K.S.A. 1998 Supp. 44-534a(a)(2).